

**SB 229 - Perry**

**13-1-107. Times for holding primary elections.** (1) On the first Tuesday after the first Monday in June preceding the general election provided for in 13-1-104(1), a primary election shall be held throughout the state.

(2) On the Tuesday following the second Monday in September preceding the general election provided for in 13-1-104(2), a primary election, if required, shall be held throughout the state.

(3) If the general election for a municipality required to hold annual elections is held in November, as provided in 13-1-104(4), a primary election, if required, shall be held on the Tuesday following the second Monday in September. In an even-numbered year, the cost of this election must be paid by the municipality.

**13-1-104. Times for holding general elections.** (1) (a) Except as provided in subsection (1)(b), a general election must be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(b) A special election may be held on an earlier date provided in a law authorizing a special statewide election on an initiative or referendum pursuant to Article III, section 6, of the Montana constitution.

(2) A general election must be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision, other than a municipality, required to hold elections annually must be held on school election day, the first Tuesday after the first Monday of May of each year, and is subject to the election procedures provided for in 13-1-401.

(4) The general election for a municipality required to hold elections annually may be held either on school election day, as provided in subsection (3), or on the first Tuesday after the first Monday in November, at the discretion of the governing body.

**13-1-106. Time of opening and closing of polls for all elections -- exceptions.** (1) Except as provided in subsections (2) and (3), polling places must be open from 7 a.m. to 8 p.m.

(2) A polling place having fewer than 400 registered electors must be open from noon to 8 p.m. or until all registered electors in any precinct have voted, at which time the polling place must be closed immediately.

(3) If an election held under 13-1-104(3) and a school election are conducted in the same polling place, the polling place must be opened and closed at the times set for the school election, as provided in 20-20-106.

**13-15-401. Governing body as board of county canvassers.** (1) The governing body of a county or consolidated local government is ex officio a board of county canvassers and shall meet as the board of county canvassers at the usual place of meeting of the governing body within 3 to 7 days after each election, at a time determined by the board, to canvass the returns.

(2) If one or more of the members of the governing body cannot attend the meeting, the member's place must be filled by one or more county officers chosen by the remaining members of the governing body so that the board of county canvassers' membership equals the membership of the governing body.

(3) The governing body of any political subdivision in the county that participated in the election may join with the governing body of the county or consolidated local government in canvassing the votes cast at the election.

(4) The election administrator is secretary of the board of county canvassers and shall keep minutes of the meeting of the board and file them in the official records of the administrator's office.



**13-15-404. Information to be entered on record.** (1) The secretary of the board shall prepare and file in the official records of his office a report of the canvass which lists:

- (a) the total number of electors voting in each precinct, district, or portion of a district in the county and the total in the county;
- (b) the name of each individual receiving votes and the office for which the votes were received;
- (c) the number and title of each ballot issue;
- (d) the votes by precinct, district, or portion of a district within the county for each individual and for and against each ballot issue;
- (e) the total votes in the county for each individual and for and against each ballot issue; and
- (f) for municipal elections, the total number of electors voting in each municipality and the votes by municipality for each individual and for and against each ballot issue.

(2) Write-in votes for an individual shall be entered in the report in the same place as the votes for other individuals for the same office but shall be identified as write-in votes.

**13-15-405. Declaration or certification of results.** (1) The board shall declare nominated or elected the individuals having the highest number of votes cast for each county and precinct office, except as provided in 13-10-204.

(2) The board shall proclaim the adoption or rejection of a county ballot issue.

(3) The board shall certify the results of the canvass of votes cast for individuals for political subdivision offices and for and against political subdivision ballot issues to the governing body of each political subdivision participating in the election.

(4) If there is a tie vote for a county office, an office of a political subdivision wholly within the county, a precinct office, or a ballot issue voted on only in that county or portion of that county, the board shall certify the vote to the election administrator.

(5) The board shall certify the results of the canvass of votes cast for justice of the peace, city judge, and municipal court judge to the supreme court in order to ensure compliance with 3-1-1502 or 3-1-1503.

**13-15-501. Certification of canvass to state canvassers.** (1) The board of county canvassers shall certify the vote for each individual for whom votes were cast for the offices of president and vice president of the United States, congressional offices, state or district offices voted for in more than one county, members of the legislature, judges of the district court, and for and against ballot issues voted on in more than one county to the board of state canvassers. The certification shall contain all the information required in 13-15-404 for such candidates and issues.

(2) The secretary of the board shall send the certification to the secretary of state by certified mail in an envelope marked "election returns".

**13-15-502. Composition and meeting of board of state canvassers.** Within 20 days after the election, or sooner if the returns are all received, the state auditor, superintendent of public instruction, and attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine the vote. The secretary of state shall serve as secretary of the board, keep minutes of the meeting of the board, and file them in the official records of his office.

**13-15-506. Report of the canvass.** (1) The secretary of the board shall prepare and file in the official records of his office a report of the canvass which lists:

- (a) the total number of electors voting in each county and in each legislative house district and the total in the state;
- (b) the name of each individual receiving votes and the office for which the votes were received;
- (c) the number and title of each ballot issue; and
- (d) the votes by county and legislative house district and the total votes for each individual and for and against each ballot issue.

(2) Write-in votes for an individual shall be entered in the report in the same place as votes of other individuals for the same office but shall be identified as write-in votes.

**5-2-201. Presession caucus.** Not later than December 1 of each year following an election when members of the legislature are elected, the parties of each house of the legislature shall hold a presession caucus for holdover senators, senators-elect, and representatives-elect. The purpose of the caucus of each party of each house is to nominate officers and establish the basis for additional presession activity, including hiring staff and appointing committees. The legislative council shall designate the time for holding the presession caucuses.

**5-2-202. Presession activity.** (1) Members of the legislature nominated to leadership positions during the presession caucus provided for in 5-2-201 and members nominated or appointed to the legislative administration committees, committee on committees, and rules committees may meet and perform necessary organizational tasks prior to the regular session, including but not limited to appointing committees, hiring staff, and assigning space and seating.

(2) Members of the house appropriations committee and of the senate finance and claims committee named prior to the regular session may begin reviewing requests for appropriations immediately and may visit state agencies and institutions to discuss requests.

**S10-10. Officers of the Senate.** The officers of the Senate are the officers listed and elected in accordance with Title 5, chapter 2, part 2, MCA.

**S30-10. Committee appointments.** (1) There is a Committee on Committees consisting of six members. If the Senate is evenly divided between parties, the committee shall consist of six Senators, three from the majority party and three from the minority party.

(2) The Committee on Committees shall, with the approval of the Senate, appoint the members of Senate standing committees, select committees, and joint committees. Prior to making committee assignments, the Committee on Committees shall take into consideration the recommendations of the minority leader for minority committee assignments.

(3) The President of the Senate shall appoint all conference committees and special committees, with the advice of the majority leader and minority leader.

(4) The Senate may change the membership of any committee on 1 day's notice.

**S10-70. President-elect.** The President-elect nominated by the appropriate party caucus held in accordance with section 5-2-201, MCA, has the responsibility and authority to assume the duties of President of the Senate.

**5-2-211. Certified rosters.** The secretary of state shall prepare certified rosters from the official election records on file in the secretary of state's office for use in the organization of the senate and house of representatives.

**13-10-201. Declaration for nomination.** (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. A candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's

nomination.

(5) (a) The declaration for nomination must be in the form and contain the information prescribed by the secretary of state.

(b) A person seeking nomination to the legislature shall provide the secretary of state with a street address, legal description, or road designation to indicate the person's place of residence. If a candidate for the legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state on a form prescribed by the secretary of state.

(c) The secretary of state and election administrator shall furnish declaration for nomination forms to individuals requesting them.

(6) Declarations for nomination must be filed no sooner than 135 days before the election in which the office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

(7) A declaration for nomination form may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

**5-2-212. Organization of senate.** At 12 noon on the day appointed for the meeting of any regular session of the legislature, the senior member present must take the chair, call the senators and senators-elect to order, call over the senators *from the certified roster prepared by the secretary of state*, and then, *from the certified roster prepared by the secretary of state*, call over the senatorial districts and counties, in their order, from which members have been elected at the preceding election. After the same are called the members-elect must take the constitutional oath of office and assume their seats. The senate may thereupon, if a quorum is present, proceed to elect its officers.

**5-2-213. Organization of house of representatives.** At the time specified in 5-2-212, the secretary of state or, in case of the secretary of state's absence or inability, the senior member-elect present shall take the chair, call the members-elect of the house of representatives to order, and then, *from the certified roster prepared by the secretary of state*, call over the roll of counties and districts. After the names are called, the members-elect shall take the constitutional oath of office and assume their seats. The house of representatives may at that time, if a quorum is present, proceed to elect its officers.

**5-2-216. Tie vote.** If there is a tie vote for the purposes of organizing the senate or the house of representatives then, for the purposes of organization, the political party's candidate for president of the senate or speaker of the house then having a member of that candidate's party as the governor of Montana is elected.

**13-10-602. Use of party name.** (1) Every political party and its regularly nominated candidates, members, and officers have the sole and exclusive right to the use of the party name. No candidate for office may use any word of the name of any other political party or organization other than that by which he is nominated.

(2) An independent or nonpartisan candidate shall not use any word of the name of any existing political party or organization in his candidacy.

**13-10-601. Parties eligible for primary election -- petitions by minor parties.** (1) Each political party that had a candidate for a statewide office in either of the last two general elections who received a total vote that was 5% or more of the total votes cast for the most recent successful candidate for governor shall nominate its candidates for public office, except for presidential electors, by a primary election as provided in this chapter.

(2) (a) A political party that does not qualify to hold a primary election under subsection (1) may qualify to nominate its candidates by primary election by presenting a petition, in a form prescribed by the secretary of state, requesting the primary election.

(b) The petition must be signed by a number of registered voters equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election or 5,000 electors, whichever is less, which number must include the registered voters in more than one-third of the legislative districts equal to 5% or more of the total votes cast for the successful candidate for governor at the last general election in those districts or 150 electors in those districts, whichever is less.

(c) At least 1 week before the filing deadline provided in subsection (2)(d), the petition and the

affidavits of circulation required by 13-27-302 must be presented to the election administrator of the county in which the signatures were gathered to be verified under the procedures provided in 13-27-303 through 13-27-306.

(d) The election administrator shall forward the verified petition to the secretary of state at least 75 days before the date of the primary.

**13-12-203. Appearance of candidate's name and party designation on ballot.** (1) Subject to 13-12-202 and except as provided in 13-10-209 for nonpartisan offices and 13-10-303 for certain other candidates, in partisan elections, candidates' names must appear under the title of the office sought, with the name of the party in not more than three words appearing opposite the name.

(2) Subject to 13-12-202, in nonpartisan elections, the candidates' names must appear under the title of the office sought, with no description or designation appearing with the name unless partisan and nonpartisan offices appear on the same ballot. In such a case, the names of nonpartisan candidates must appear with the words "Nominated without party designation".

**13-12-201. Secretary of state to certify ballot.** (1) Seventy-five days or more before an election, except as provided in 13-10-208, the secretary of state shall certify to the election administrators the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the secretary of state's office, which must include the notification specified in 13-37-126.

(2) The election administrator shall certify the name and party or other designation of each candidate entitled to appear on the ballot and the ballot issues as shown in the official records of the election administrator's office, which must include the notification specified in 13-37-126, and shall have the official ballots prepared.

(3) If a candidate for the legislature is no longer eligible under Article V, section 4, of the Montana constitution to seek the office for which the candidate has filed because the candidate has changed residence, the secretary of state shall notify the candidate that the candidate is required to withdraw as provided in 13-10-325.

**13-1-204. Election records to be kept by secretary of state.** (1) The secretary of state shall maintain current and accurate records including:

- (a) a list of all precincts in each county;
- (b) a map showing the boundaries of all precincts in each county;
- (c) a count of the number of registered voters in each precinct for the latest general election;
- (d) a list of legislative districts, judicial districts, and any multicounty election districts, showing the precinct numbers of each county contained in each district and the number of registered voters in each district for the most recent general election;
- (e) a count of votes cast at the most recent general election by precinct and by legislative, judicial, and multicounty districts; and
- (f) records required to be submitted from local election administrators and other agencies and coordinated by the secretary of state pursuant to the National Voter Registration Act of 1993, Public Law 103-31.

(2) Each election administrator shall provide the information and map for the record required in subsection (1) in the form and at the time prescribed by the secretary of state.

(3) The records required in subsection (1) and all records in the secretary of state's office pertaining to elections must be open for public inspection during normal office hours.